IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

Ins.APP.No. 36 OF 2004()

EIC.67/2003 of E.I.COURT, KOZHIKODE

APPELLANT/APPLICANT

M/S. KERALA TRANSPORT COMPANY,
Y.M.C.A. ROAD, CALICUT REP.BY ITS MANAGING
PARTNER, P.V.CHANDRAN.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: RESPONDENT

THE REGIONAL DIRECTOR,
E.S.I. CORPORATION, THRISSUR.

BY ADV. SRI.T.V.AJAYAKUMAR

THIS INSURANCE APPEALS HAVING COME UP FOR ADMISSION ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMAN, J.

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INSURANCE APPEAL NO. 36 OF 2004

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DATED THIS, THE 30TH DAY OF JANUARY, 2007

J U D G M E N T

M/s. Kerala Transport Company is the appellant. This appeal is against the order in E.I.C. No. 67/2003 (old No. EIC 45/93) on the file of the Employees Insurance Court, Kozhikode.

2. As against the preliminary finding regarding limitation, the appellant had approached this Court earlier, by filing MFA 1455/1997 wherein a contention was raised that the claim of the Corporation is barred by the law of limitation, which was however, turned down by this Court as per its judgment dated 29.1.2003. However, the matter was remanded with regard to the quantum fixed by the respondent Corporation. Subsequent to the remand, the court below has entered a preliminary finding on the question of limitation and held that in view of the decision in M.F.A. 1455/1997 it is no longer open to the applicant (appellant herein) to contend for the position that the claim is barred by limitation. Though the appellant relied on the decision of the Full Bench of this Court in **E.S.I. Corporation**

v. Excel Glasses Ltd. (2003(3) KLT 42), the same was not accepted since the appellant is bound by the decision in MFA 1455/1997, which is a judgment inter parties.

3. When the matter came up for hearing today, it is submitted by the counsel appearing on behalf of the respondent that the said Full Bench decision is over-ruled by the decision of the apex court in **Employees State Insurance Corporation v. Santhakumar (**2007(1) KLT 133) . In the light of the above facts and circumstances, the point decided on the question of limitation goes against the appellant and it cannot now be contended to be bad for any reason.

Accordingly, this appeal is dismissed.

P.R. RAMAN,
JUDGE.

knc/-